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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

802001

In re the Application of:

Paul Cinquemani

Serial No.: 10/651,012

Filed: 08/28/2003

For: Inertial brake actuator for

towed vehicle

) Group Art Unit: 3683

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) Examiner: Mr. Thomas J. Williams

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Response to First Office Action

Assistant Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In the above entitled application, Applicant submits the following in response to the first office action, dated 11/2/04:

1. Claims 1-20 are pending in this application.
2. Applicant acknowledges and thanks Examiner for the productive and efficient telephone interview of December 23, 2004 wherein it was mutually agreed that the proposed language "wherein said base is suitable for mounting in the vehicle" would define over the Hendrix reference, discussed infra because, as noted by Examiner, "The base element of Hendrix, as interpreted by examiner, is part of the hitch assembly and is not intended for mounting in the vehicle."
3. This office action response will use numbering corresponding to Examiner's Detailed Action from Item 3. Examiner rejected Claims 1-8 under 35 USC §102(b) as being anticipated by US 5,195,768 to Hendrix.

a. Re-claim 1, Examiner argues that Hendrix discloses the essential elements of claim 1, to wit, a base element having a top side and a bottom side; a weight (interpreted by Examiner as the combination of the vehicle and ball mount); a connection of the weight to the pedal; the weight is slidably mounted within the base element; and the interaction between the mount and the base element define a sliding means. During the above described telephone interview, it was agreed that the insertion of the phrase "wherein said base is suitable for mounting in the vehicle" into claim 1 would define over the disclosure in the Hendrix reference because Examiner's interpretation of the base element is a part of the hitch assembly of Hendrix and therefore is not intended to be mounted in the vehicle. The proposed addition to claim 1 is documented thoroughly in the specification, for example in Figure 1, and does not constitute new matter. Accordingly, please amend Claim 1 as follows:

"1. An inertial brake actuator for a towed vehicle having a floor and a braking system actuated by a brake pedal comprising:  
a. a base comprising a top side and a bottom side, wherein said base is suitable for mounting in the vehicle;  
b. a weight comprising a means for contacting the brake pedal, a top and a bottom, slidably mounted to the base along a line of travel between a forward position and a rearward position, wherein the means for contacting the brake pedal are configured to actuate the brake pedal responsive to the deceleration of the towed vehicle and wherein the weight has sufficient mass to apply a braking force to the brake pedal during deceleration of the towed vehicle;  
c. sliding means between the base and the weight wherein the sliding means enforce said line of travel between said forward position and said rearward position."

Added matter is underlined. A clean copy of Claim 1, as amended, is provided in Appendix 1 in accordance with MPEP §714.

b. Claims 2-8 depend from Claim 1. It is therefore believed that since claim 1 is amended so as to define over the Hendrix reference, and since dependent claims carry all of the limitations of the claims from which they depend, it is submitted respectfully that claims 2-8 are likewise defined over the Hendrix reference.

c. Based on the above, it is believed that Claims 1-8, as amended, are in condition for allowance.

4. Examiner rejects claims 9-20 under 35 USC §103(a) as being unpatentable over the aforementioned Hendrix reference in view of US6,644,761 to Schuck. In an argument similar to that set forth supra, Examiner argues that Hendrix discloses a base element having a top side and a bottom side; a weight (interpreted by Examiner as the combination of the vehicle and ball mount); a connection of the weight to the pedal; the weight is slidably mounted within the base element; and the interaction between the mount and the base element define a sliding means. However, as noted by Examiner, the Hendrix reference "fails to teach the inertial brak[ing] system as having an auxiliary vacuum based brake system." Further, Examiner cites the Schuck reference, which discloses a vacuum based brake system that includes a vacuum brake booster for operating power brakes and an inertia switch. Also disclosed inter alia in the Schuck reference and not disclosed in the present application are a vacuum cylinder for actuating the brake pedal, a transmitter, a receiver, a towed vehicle brake-light switch and a towing vehicle relay in series with the towing vehicle adjustable inertia activated switch. Examiner states that "It would

have been obvious to one of ordinary skill in the art to have provided the towed vehicle system of Hendrix with an auxiliary vacuum based brake system taught by Schuck, thus providing adequate braking force to the towed vehicle."

- a. In accordance with above described telephone interview, it was agreed that the insertion of the phrase "wherein said base is suitable for mounting in the vehicle" into claim 9 would define over the disclosure in the Hendrix reference because Examiner's interpretation of the base element is a part of the hitch assembly of Hendrix and therefore is not intended to be mounted in the vehicle. The proposed addition to claim 9 is documented thoroughly in the specification, for example in Figure 2, and does not constitute new matter. Accordingly, please amend Claim 9 as follows:

9. An inertial brake actuator for a towed vehicle having a floor and a vacuum-based power assisted braking system actuated by a brake pedal comprising:

- a. a base comprising a top side and a bottom side, wherein said base is suitable for mounting in the vehicle;  
b. a weight comprising a means for contacting the brake pedal, a top and a bottom, slidably mounted to the base along a line of travel between a forward position and a rearward position, wherein the means for contacting the brake pedal are configured to actuate the brake pedal responsive to the deceleration of the towed vehicle and wherein the weight has sufficient mass to apply a braking force to the brake pedal during deceleration of the towed vehicle;  
c. sliding means between the base and the weight wherein the sliding means enforce said line of travel between said forward position and said rearward position;  
d. an auxiliary vacuum source connectable to the towed vehicle braking system to augment the actuation of the towed vehicle braking system.

Added matter is underlined. A clean copy of Claim 9, as amended, is provided in Appendix 1 in accordance with MPEP §714. It is

submitted that obviation of the Hendrix reference by making the above amendment, in turn, eliminates the prima facie case for obviousness.

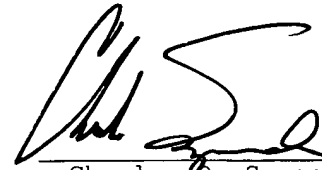
b. Claims 10-20 depend directly or indirectly from Claim 9.

Since claim 9 is amended so as to define over the corresponding elements of the Hendrix reference, and since dependent claims carry all of the limitations of the claims from which they depend, it is submitted respectfully that claims 10-20 are likewise defined over the corresponding elements of the Hendrix reference. It is, therefore, submitted that obviation of the Hendrix reference by making the above amendment, in turn, eliminates the prima facie case for obviousness.

c. Based on the above, it is submitted respectfully that Claims 9-20, as amended, are in condition for allowance.

5. With claims 1 and 9 amended in accordance with the above referenced telephone interview, it is submitted that claims 1-20 have been placed in condition for allowance.

Dated this 15<sup>th</sup> day of January, 2005  
Respectfully submitted,



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